



**COMBATTING TERRORISM:  
HOW CAN DEMOCRACIES RESPOND?**

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## **COMBATTING TERRORISM: HOW CAN DEMOCRACIES RESPOND?**

### **INTRODUCTION**

The events of September 11 demonstrated that even the home territory of the world's only superpower is not immune from terrorist attack. With the demise of the Soviet Union and the end of the Cold War, the West had become complacent about its security. The United States was the only remaining superpower and, although there were regional conflicts that needed tending, North America's homeland security seemed guaranteed. Who could challenge this continent? Who could make us worry? Who could match our collective might? Peacekeeping was the immediate military challenge and, at least for Canadians, human security became the rubric under which we were to engage the international community.<sup>(1)</sup>

September 11 changed all that. It brought an end to the optimism generated by the fall of the Berlin Wall. The latter event symbolized the hopes of the post-Cold War period, whereas September 11 has made us rethink the complacency to which the West had so easily fallen prey. If there is one thing we now share above all else, it is a sense of vulnerability.<sup>(2)</sup>

The context in which North America now formulates its foreign and defence policies is fundamentally different from that of only a short while ago. There is no more talk of "war without casualties"; rather, there is a renewed understanding that a conflict over basic values is more fundamental than one over strategic interests. What was under attack in New York, Washington and Pennsylvania was not merely a symbol of modern America's financial and military strength; it was the very basis upon which Western democratic societies are founded.

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(1) *State of Readiness of the Canadian Forces: Response to the Terrorist Threat*, House of Commons Standing Committee on National Defence and Veterans Affairs, November 2001.

(2) *Ibid.*

The attack was aimed at the West's belief in secular rationalism, at the fact that we encourage pluralism and believe that societies can mould their own destiny. It is our belief in progress and equality that has come under siege, along with the fact that we are a society built on inclusion rather than exclusion.

The West promotes the separation of church and state in order to ensure freedom of worship. At the same time we understand, if only intuitively, that moral choices are, above all, about what is good in itself, objectively and for all people. There are moral rights and duties that are independent of race or culture, tradition or form of government. The practice of those rights and duties defines us as human beings, not as citizens of this or that society. No domain – not even a religion – justifies practices that undermine human rights; and no organization – not even a religious institution – can be left unaccountable for its actions.

While the tragedy of September 11 took place on American soil, it was really an attack on all Western democratic values and systems.

## **THE NEW THREATS**

Perhaps the most disquieting lesson of September 11 was the ease with which the terrorists were able to exact their toll. Often, when we think of weapons of mass destruction, we conjure up images of the “nuclear suitcase” or of biological and chemical agents, all of which require sophisticated technological or scientific knowledge for their production. Some of these may well be available on the open market, and we must be increasingly vigilant about such possibilities, for the consequences could prove even more catastrophic than those of September 11. At the same time we must recognize that, given the nature of our modern-day, open society, great damage can be inflicted using very low-tech, everyday means.

The tragic events of September 11 were made possible by cell phones, open borders, easy travel, North America's open society, international banking, etc. Indeed, they were made possible by the very values and practices upon which modern society is based. The terrorists used asymmetric techniques to target the United States' vulnerabilities.

As techniques have changed, so, it seems, have terrorists' motives. Thirty years ago, the aim of terrorism was to publicize a cause and to mobilize support on its behalf. Groups that carried out attacks would claim responsibility for them, wanting the wider public to know what they had done, and why. Casualties and fatalities were usually low, and hostages were

generally released. To do otherwise might only have alienated potential supporters or evoked severe countermeasures that could have destroyed the group.

Since the early 1980s, things have changed. Many terrorist incidents have gone unclaimed, suggesting a change in motivation from mobilization to punishment. Some groups no longer feel the need to publicize their cause and to rally support. Today the primary motive of terrorist groups seems to be to strike a major, damaging, physical and psychological blow against their enemies. This has resulted in much higher casualties; the 1980s and 1990s witnessed incidents wherein hundreds died and many more were injured.

The most recent attacks, however, represent a quantum leap in lethality. It would not be an exaggeration to suggest that the most effective terrorist groups are now on a par with the states that they oppose<sup>(3)</sup> – not in terms of military might, but in the sense that, given sufficient funding and organizational skill, terrorists can create weapons with a destructive power equal to the major weapons of a state. They can use those weapons to strike at a state's political, economic and social centres of gravity and thus inflict catastrophic human, psychological, political and economic damage, with major ripple effects on global security and stability.<sup>(4)</sup>

## **HOW DO DEMOCRACIES RESPOND?**

The question confronting democracies is “how do we respond?” – not only today, but over the long term. How does a country organize and prepare itself against the possibility of further attacks? What should be expected of the public and the members of the armed forces?

If the conditions giving rise to a particular brand of fanaticism are rooted in poverty or some other form of unjustifiable deprivation – for example, the loss of historically held territory or the yearning for democratic self-rule – then there may be obvious options for addressing the root cause. If the key facts are religious or ideological zealotry, then matters become more complex. Here the application of reason and compromise will likely produce little in the way of results.

When democratic states attempt to deal with terrorism, they are confronted with an unfortunate paradox. The very qualities that make democracies so vulnerable to terrorists are

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(3) Dr. David Charters, *Proceedings*, House of Commons Standing Committee on National Defence and Veterans Affairs, 1 November 2001.

(4) *Ibid.*

those that make them superior to other systems of government and so worth preserving. Consequently, when such states are considering an appropriate response, the overriding questions are not legal or technological; they are philosophical and political.

Terrorism is an indirect strategy that wins or loses in terms of the response it receives. It can succeed only if governments respond to it as the terrorists want. Thus, in combatting terrorism it is imperative that democratic regimes retain their legitimacy while denying that of the terrorists, and it is important to have a consistent understanding of what constitutes the legitimate use of force. The argument that combatting terrorism requires using terrorist methods is not only morally questionable but could prove to be politically disastrous.

Democratic states have a variety of policy tools at their disposal in the fight against terrorism. These include:<sup>(5)</sup>

- **Diplomacy and Constructive Engagement:** The use of diplomacy in fostering international co-operation in the fight against terrorism is one such tool. Some argue that diplomacy holds little hope of success against determined terrorists or the countries that support them. However, in most cases, diplomatic measures are considered least likely to widen the conflict and therefore are usually tried first.
- **Economic Sanctions:** Sanctions can be essentially unilateral – such as U.S. bans on trade and investment relations with Cuba and Iran – or multilateral, such as those mandated in response to the Pan Am 103 bombing. In the past, use of sanctions was usually predicated upon identification of a nation as an active supporter or sponsor of international terrorism. Yet sanctions can also be used to target assets of terrorist groups themselves. A United Nations Security Council Resolution in December 2000 declared that states should freeze financial assets of Osama bin Laden and those affiliated with him. On 25 September 2001, the U.S. government froze the assets of 27 organizations known to be affiliated with bin Laden’s network. At the same time, the U.S. Treasury Secretary was given broad powers to impose sanctions on banks around the world that give those organizations access to the international financial system. Also on 25 September 2001, the G7 finance ministers agreed to co-operate in blocking the flow of money to international terrorists suspected of having been involved in the September 11 attacks. UN Security Council Resolution 1373 of

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(5) This section is taken from Lee Rensselaer and Perl Raphael, *Terrorism, the Future and US Foreign Policy*, Congressional Research Service (CRS) Issue Brief, 7 May 2002.

28 September 2001 required that UN members deny money, support, and sanctuary to terrorists.

- **Economic Inducements:** Possible counter-terrorism initiatives might include efforts to change economic and social conditions that provide a breeding ground for terrorists. It has been noted that most terrorists worldwide are unemployed or underemployed, with virtually no prospects for economic advancement. Some analysts believe that targeted assistance programs to reduce poverty and ignorance can make a difference in lifestyles and attitudes, and thus diminish the proclivity to terrorism. Others argue that economic conditions are not the sole or even the main motivational factor driving the emergence of terrorism. Resentment against a particular country or political order, and religious fanaticism, are also important motivations. Witness, for example, bin Laden's personal fortune (informally estimated at \$300 million) and his far-flung business empire. All of the 15 Saudi Arabian hijackers implicated in the September 11 attacks were from middle-class or well-connected families. It is possible, however, that economic variables may influence some kinds of terrorist behaviour more than others, or that the relationship between positive economic change and reductions in terrorist behaviour occurs over a timeframe measured in years or decades.
- **Covert Action:** Intelligence gathering, infiltration of terrorist groups, and military operations involve a variety of clandestine or so-called "covert" activities. Many of these activities are of a passive monitoring nature aimed at determining the strategic intentions, capabilities and vulnerabilities of terrorist organizations. Covert action may also seek to exploit vulnerabilities of terrorist organizations – for example, by spreading disinformation about leaders or fomenting factionalism internally. Many experts believe that the events of September 11 signified an intelligence failure of major proportions, and that better intelligence on the inner workings of terrorist organizations could have prevented the attacks. The co-operative exchange of intelligence among nations is also important, especially given that terrorist organizations are often transnational with "safe havens" in different countries.
- **Military Force:** Proponents of the selective use of military force usually emphasize the military's unique skills and specialized equipment. Successful use of military force for pre-emptive or retaliatory strikes presupposes the ability to identify a terrorist perpetrator or its state sponsor, as well as the precise location of the group – information that is not always readily available. Generally, terrorists possess modest physical facilities that present few



high-value targets for military strikes. Some critics have observed that military action is a blunt instrument that can cause foreign civilian casualties as well as collateral damage to economic installations in the target country. Others argue that such action inflates terrorists' sense of importance and facilitates their recruitment efforts.

- **International Conventions:** International conventions impose on their signatories an obligation either to prosecute offenders or to extradite them to permit prosecution for a host of terrorism-related crimes, including hijacking vessels and aircraft, taking hostages, and harming diplomats.

## THE ROLE OF PARLIAMENTS

As governments come to grips with the threat of terrorism, there is also the question of the role of legislatures in this struggle. One of the more consistent themes to emerge throughout the debate over appropriate responses is the importance of civil rights. That is, as new legislation to counter terrorism – often involving extended police and security force powers – is enacted, it is important that civil rights continue to be protected.

The UN Human Rights High Commissioner, at that time Mary Robinson, recently argued that, in some countries, the war on terrorism is reducing rights in the name of security. Ms. Robinson's warning echoed those of rights groups such as Amnesty International, which in May 2002 accused governments from the United States to South Korea of rushing through laws since September 11 giving themselves emergency powers with little regard for civil rights. According to Ms. Robinson, the problem is particularly worrisome in countries lacking a strong democratic tradition.

Here, the role of legislatures is particularly important. Legislatures in democratic parliaments are empowered to provide effective oversight of the executive. This can be done by ensuring that proposed legislation does not unduly infringe on civil rights and by monitoring the application of laws, once passed, to ensure that rights are preserved.

The purpose of anti-terrorism measures is, of course, to guarantee security for all citizens. In the longer term, however, the fight against terrorism is a fight to protect the fundamental values and freedoms that have been developed over the second half of the twentieth century. It is also a fight to defend an international environment based on a mutually agreed set of rules that can be called the "international rule of law." Evidently, efforts against terrorism

cannot be intended to promote an international order based exclusively on the “law of the strongest” and the projection of power. Therefore, the protection of democratic values and human rights should be seen as an integral part of the struggle against terrorism, not as an obstacle to it.<sup>(6)</sup>

Inevitably, problems will occur if countries circumvent established international human rights standards and humanitarian law when adopting legislative and administrative counter-terrorism measures. To do so would mean relinquishing the moral high ground and thus the ability to address human rights problems credibly in other countries. Ignoring commonly agreed-on norms can lead only to an unpredictable and chaotic international legal order. It is therefore the responsibility of all states, and it is also in their own best interests, to preserve existing achievements when developing new approaches to the fight against terrorism.<sup>(7)</sup>

In ensuring that states strike the right balance in their response to terrorism, it is crucial to maintain the democratic process based on the rule of law and a functioning system of checks and balances. Strict adherence to international obligations also remains important. This is particularly valid in cases where governments decide they must take measures that derogate from certain rights guaranteed under international law. International standards require that any such measures must be of a genuinely exceptional character, and carefully weighed. They must be strictly limited in time and substance, and subject to regular review.<sup>(8)</sup>

The adoption of any derogations must also be consistent with established national and international procedures and mechanisms. No derogations are acceptable from some rights, including the right to life and the prohibition of torture. Certain minimum fair trial standards must always be respected under any circumstances. As far as law enforcement is concerned, there is obviously a need for efficient and quick responses to terrorist threats; nonetheless, extra powers given to law enforcement agencies should always be subject to close judicial oversight.<sup>(9)</sup>

In the fight against terrorism, it is of utmost importance that parliaments ensure that the foregoing standards and processes are adhered to. Legislative oversight and the monitoring of how laws are enacted are a fundamental part of the democratic process. In certain

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(6) Gerard Stoudmann, *Striking a Fair Balance: Protecting Human Rights in the Fight Against Terrorism*, Organization for Security and Co-operation in Europe (OSCE) Newsletter, April 2002.

(7) *Ibid.*

(8) *Ibid.*

(9) *Ibid.*

parliaments this may be done by the legislature as a whole, while in others it may be done primarily through the standing committee system. In the end, what is important is that it be done. Clamping down on legitimate and non-violent dissent, as well as permitting indiscriminate harassment of certain ethnic or religious groups, and other similar excessive measures taken in the name of the fight against terrorism, are not only contrary to international law; they also play into the hands of extremists exploiting frustration and discontent among those who feel they are victims of intolerance and persecution.

### **ADDRESSING THE CAUSE**

While governments need to be prepared to deal with terrorist threats, there is also an obligation to address the root causes of terrorism. The Development Assistance Committee of the OECD<sup>(10)</sup> recently identified a multiplicity of factors that may combine to trigger or foster terrorism:

- A feeling of marginalization running through broad segments of the population;
- Isolation and exclusion;
- A shortage of institutions that facilitate political expression, safeguard public security, and resolve conflicts in a peaceful way;
- Widespread unemployment or insufficient occupational opportunities for young men;
- Widespread corruption;
- Widespread criminality;
- A sentiment of extreme inequality perceived both within national and international contexts;
- Political instability;
- Polarized identity politics;
- Religious and ideological extremism;
- Deep-rooted dissatisfaction;
- Ongoing long-term conflicts;
- The availability of financial resources and weapons.

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(10) OECD: Development Co-operation Responses to Terrorism and Violent Conflict, Note by the Secretariat, DCD/DAC (2001)25/REV1, 3 December 2001.

These sorts of hardships and feelings of alienation are precisely the kinds of conditions that can be exploited by terrorist organizations. Regions with a high percentage of poor inhabitants can easily become recruiting grounds for terrorists. Thus, a concerted international effort to fight poverty and improve the socio-economic conditions of the disadvantaged is a prerequisite to the long-term struggle against terrorism. Economic and social security, participation in political and social life, sustainable use and protection of resources, as well as widespread access to services, are among the key factors in reducing poverty and preventing violence.<sup>(11)</sup>

## THE INTERNATIONAL RESPONSE

In the aftermath of September 11, the international community quickly came to the conclusion that the terrorist threat was global and would require a collective response. Following is a brief overview of some of the actions taken:<sup>(12)</sup>

- **The United Nations.** Security Council Resolution 1373 called for prevention of the financing of terrorism, along with prevention of every other form of active or passive support for terrorism, e.g., by countering the recruitment of terrorists, access to weapons, and the provision of a safe haven for terrorists. Terrorists must be punished or extradited, and heavy sentences should be imposed. The resolution also called for better co-operation between criminal justice authorities and for prevention of the movement of terrorists by means of effective border controls and checks on the issue of identity papers and travel documents. Measures should also be taken to prevent the abuse of asylum procedures.
- **NATO.** On 12 September 2001, the NATO allies underlined their solidarity with the United States by issuing a declaration to the effect that, if the attack on the United States had been directed from outside, it would be considered an attack on the Alliance as a whole, thus invoking article 5 of the NATO Treaty. On 2 October, the United States demonstrated that the attack had indeed been directed from outside the territory of the Treaty, and consequently

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(11) Barbara Haering, *Preventing Terrorism: Challenges to the Economic Dimension of the OSCE*, OSCE Parliamentary Assembly, Berlin, 6-10 July 2002.

(12) Theo van den Doel, *Confronting Terrorism: Global Challenge in the 21st Century*, OSCE Parliamentary Assembly, Berlin, 6-10 July 2002.

article 5 came into effect. On 4 October, at the request of the United States, NATO announced eight measures to combat terrorism. The military action against Al Qaeda and the Taliban regime in Afghanistan began on 7 October. The NATO meetings of foreign ministers and later defence ministers also expressed strong support for the international coalition against terrorism and stressed the need for measures to improve the Alliance's ability to fight terrorism. Several NATO countries are participating in the operations Enduring Freedom and Anaconda.

- **The European Union.** The EU has adopted a wide-ranging set of measures based on the EU Action Plan agreed on at the Laeken European Council. It contains specific measures against terrorism and terrorist activities, such as the exchange of operational information, better co-operation between European intelligence services, the freezing of assets, specific measures against money-laundering, better protection of passenger aircraft and an action program related to nuclear, biological and chemical terrorism.
- **The Council of Europe.** The main contribution of the Council of Europe has been in the area of the protection of democratic values. Agreements made by its Chairman in Office are legally binding. On 12 September 2001, the Chairman of the Committee of Ministers issued a declaration condemning the attacks on the United States. In addition, the Committee stated that it viewed them as an attack on all Western values. The Chairman in Office also set up a Multidisciplinary Group on International Action against Terrorism that focuses on two questions: how can existing instruments be used? and what additional measures can be taken in the fight against terrorism? The Chairman in Office also emphasized that the West's own values (i.e., democratic values) should be maintained in the fight against terrorism.
- **The Organization for Security and Co-operation in Europe.** Although the Helsinki Final Act (1975) condemned support for terrorist activities and the Paris Charter (1990) called for the eradication of terrorism, the OSCE had not worked out a detailed strategy for combatting terrorism. Since September 11, terrorism has been at the forefront of the OSCE agenda. An OSCE action plan for combatting terrorism was adopted by the OSCE Ministerial Council in Bucharest in December 2001. Under the plan, the OSCE will offer participating states assistance in implementing international anti-terrorist conventions and protocols. It will also step up its activities to promote the rights of people belonging to national minorities.

## **CONCLUSION**

The fight against terrorism will be long and multi-faceted. Democratic states may, at times, be tempted to sacrifice civil rights on behalf of the grander cause of eliminating terrorism. While some may justify such actions in the name of “efficiency,” in the end they will result only in the derogation of our own claims to legitimacy and moral superiority in the struggle. Ultimately, success will be assured only if military victories are accompanied by social reconstruction and the extension of human rights to the dispossessed.